

EXHIBIT C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

ALVIN B. GALUTEN, MD, PSC,

Plaintiff,

-vs-

Civil Action No. 10-cv-155-SM

MEDICUS RADIOLOGY STAFFING,
LLC,

Defendant.

VIDEOTAPED

DEPOSITION OF: TONY WELCH

DATE: Thursday, March 31, 2011

TIME: 12:51 p.m. - 2:17 p.m.

PLACE: Guardian Reporting, Inc.
18245 Paulson Drive, Suite 122
Port Charlotte, Florida 33954

PURSUANT TO: Notice of Deposition of Tony Welch
by Counsel for the Defendant

BEFORE: Julie D. Zittlow, RPR, CSR, FPR
Notary Public
State of Florida at Large

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1 MR. HOWARD: Objection, basis of knowledge.
2 BY MR. HARRIS:

3 Q. You described on a high level the process
4 that you engaged in along with Medicus to find a
5 replacement when you and Medicus sat down to do that.
6 Did you have a specific block of time that you felt you
7 needed to fill?

8 A. It would have been the shifts that
9 Dr. Galuten's departure left open.

10 Q. And would that have run through August 5th,
11 sir?

12 A. It would have, yes, in addition to any other
13 vacancies that we were trying to fill.

14 Q. How many locum tenens physicians were in that
15 department let's say in May of 2007, do you recall?

16 A. I don't recall specifically but an educated
17 guess is that we would have had anywhere between six and
18 12 who were rotating through giving us time in order to
19 fill our slots.

20 Q. At some point after Dr. Galuten left, did you
21 learn that he had expressed a desire to return to Hardin
22 Memorial Hospital?

23 A. Possibly.

24 Q. Do you recall what your reaction was when you
25 learned that?

1 MR. HOWARD: Well, objection. He doesn't --
2 he testified that he doesn't recall even learning
3 it.

4 BY MR. HARRIS:

5 Q. Do you recall what your reaction was?

6 A. I couldn't say that I was overjoyed to hear
7 that he was interested in returning.

8 Q. And why was that?

9 A. Well, Dr. Galuten had had an altercation --

10 MR. HOWARD: Objection to relevance.

11 MR. HARRIS: Go ahead.

12 BY THE WITNESS:

13 A. -- an altercation with the hotel that he was
14 a guest at while he was working for Hardin Memorial
15 Hospital, and apparently his car had broken down one
16 morning --

17 MR. HOWARD: Objection, it's all based on
18 hearsay.

19 MR. HARRIS: Well, let him -- I understand
20 your objection, but why don't you continue your
21 answer.

22 MR. HOWARD: Well, he can continue the answer
23 but I'm not going to waive an objection by allowing
24 him to testify to things that are clearly hearsay
25 so I'm stating the objection. He can continue.

1 MR. HARRIS: Go ahead, sir.
2 BY THE WITNESS:

3 A. So his car had apparently broken down and he
4 had asked the hotel clerk to give him a ride to the
5 hospital so he could be on -- on shift at 6:00 a.m. The
6 hotel clerk was the only person at the hotel and
7 obviously could not leave the hotel unattended and told
8 Dr. Galuten that, and after some disagreement
9 Dr. Galuten made a reference to his sexual orientation.

10 BY MR. HARRIS:

11 Q. The hotel clerk's orientation?

12 A. Yes.

13 MR. HOWARD: And allow me to restate my
14 objection and move to strike all of the witness's
15 prior answer regarding that incident.

16 BY MR. HARRIS:

17 Q. Sir, how did you come to learn the tales that
18 you just testified to regarding the incident at the
19 hotel?

20 A. I don't recall specifically if that was from
21 one of our administrative assistants who got the call
22 from the hotel or if it was from Medicus who had
23 received that call.

24 Q. Did the incident at the hotel have any impact
25 on your decision making as to whether or not to allow

1 Dr. Galuten to continue to work at Hardin Memorial
2 Hospital?

3 A. It did not really have an impact in terms of
4 we didn't -- we didn't say, okay, we need to get rid of
5 this guy. But once Dr. Galuten left on his leave, which
6 had previously been unscheduled, I was -- I was not
7 sorry to see him leave and for us to get somebody who
8 perhaps didn't have such a volatile personality.

9 MR. HOWARD: Objection.

10 BY MR. HARRIS:

11 Q. If Dr. Galuten approached Hardin Memorial
12 Hospital and asked to return after he left, would you
13 have accepted him back?

14 A. I don't believe so.

15 Q. Okay. Why? Tell us why.

16 MR. HOWARD: Objection, speculation.

17 BY THE WITNESS:

18 A. Just -- just based on the fact that he
19 interrupted the assignment without a lot of notice, the
20 fact that he had the altercation locally, and I guess
21 from a matter of trust, no, I wouldn't have personally
22 wanted him back.

23 BY MR. HARRIS:

24 Q. Did you express any of these feelings
25 regarding Dr. Galuten to anyone at Medicus?

1 A. Yeah, I probably did.
 2 Q. Do you recall --

3 MR. HOWARD: Objection, speculation.
 4 BY MR. HARRIS:

5 Q. Do you recall to whom you expressed those
 6 feelings?

7 A. Again it --

8 MR. HOWARD: Objection, it assumes his
 9 testimony. He said he probably did but he didn't
 10 say he actually did.
 11 BY THE WITNESS:

12 A. It would have been either Nicole or Grant
 13 Smith.
 14 BY MR. HARRIS:

15 Q. If we look at Exhibit 3 for a moment, sir,
 16 this is the one that has the dates for the assignment
 17 term. Do you see that?

18 A. Yes.

19 Q. It appears to me if we look at the dates that
 20 Dr. Galuten was scheduled to be at Hardin Memorial
 21 Hospital every day between April 30th and August 5th; is
 22 that right?

23 A. Yes.

24 Q. That would include weekends; right?

25 A. Yes.

1 MR. HARRIS: Yes.
 2 BY MR. HARRIS:

3 Q. -- ask you about the bottom part of this
 4 which appears to be an email from Nicole Charette to
 5 you; is that right?

6 A. Yes.

7 Q. Do you have any memory of receiving this
 8 email?

9 A. Yes.

10 Q. The email is dated May 17th, 2007; correct?

11 A. Yes.

12 Q. And can we -- there's some discussion here in
 13 the email about Dr. Galuten not being there for Memorial
 14 Day; is that right?

15 A. That's correct.

16 Q. Okay, and can we agree that the remainder of
 17 the email deals with finding a replacement to cover for
 18 Memorial Day?

19 A. Yes.

20 Q. So is it fair to say that as of May 17th
 21 there were plans underway to find a replacement for
 22 Dr. Galuten for as far out as Memorial Day?

23 A. Yes.

24 Q. We covered -- I'm going to turn your
 25 attention back to Exhibit No. 3 for a moment, sir.

1 Q. You gave us a summary as to what was done to
 2 find a replacement for Dr. Galuten. Do you recall that?

3 A. Yes.

4 Q. Was Medicus initially able to find another
 5 radiologist to fill Dr. Galuten's spot in the
 6 department?

7 A. Eventually but I can't speak to how long it
 8 took to find a replacement. I don't recall the amount
 9 of time it took.

10 Q. Do you recall, sir, whether there was some
 11 period of time that Dr. Galuten's placement was
 12 unfilled?

13 A. Yes.

14 Q. Am I correct, sir, that eventually Medicus
 15 was able to place at least one doctor to fill
 16 Dr. Galuten's spot?

17 A. Yes.

18 MR. HARRIS: Mark this next, please.

19 (Whereupon, Exhibit No. 4 was marked for
 20 identification.)

21 BY MR. HARRIS:

22 Q. Sir, you have been handed what has been
 23 marked as Exhibit No. 4. Can we agree -- I just want to
 24 ask you about the bottom part --

25 MR. HOWARD: For identification only.

1 A. Okay.

2 Q. We covered very briefly that there's a rate,
 3 an hourly rate, to be paid for overtime services; is
 4 that right?

5 A. Yes.

6 Q. Okay. In this case it was \$570 an hour;
 7 right?

8 A. Yes.

9 Q. Do you recall, sir, that when Dr. Galuten
 10 worked at Hardin Memorial Hospital that he, in fact,
 11 worked overtime hours?

12 A. Yes.

13 Q. What do you recall about that, sir?

14 A. I mean, I recall it was a lot of hours that
 15 he worked during the period of time he was there.

16 Q. If we look at Exhibit 3 under the regular day
 17 rate, there's \$3,800 per day for a ten-hour day; right?

18 A. Yes.

19 Q. And so check me on my math on that, is that
 20 \$380 an hour was the regular rate?

21 A. That would be, yes.

22 Q. Okay, and then the overtime rate is bumped up
 23 to \$570 an hour; right?

24 A. Correct.

25 Q. So I don't want to -- I am not